

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

FILED
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RANDY L. HANCOCK,
Plaintiff

v.

PRINCETON PROPERTIES MANGEMENT, INC.)
d/b/a PRINCETON PROPERTIES APARMENTS,)
CHRISTIAN H. GARGUREVICH, and)
ROLAND FONG dba R & R LAWN)
MAINTENCE AND LANDSCAPING)
Defendants,)

U.S. DISTRICT COURT
DISTRICT OF MASS

C.A. NO. 04-10781NMG

ANSWER WITH JURY CLAIM OF
DEFENDANT, ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING

and

DEFENDANT ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING'S
CROSSCLAIM AGAINST PRINCETON PROPERTIES MANGEMENT, INC.
d/b/a PRINCETON PROPERTIES APARMENTS,

and

DEFENDANT ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING'S
CROSSCLAIM AGAINST CHRISTIAN H. GARGUREVICH

I. NATURE OF CASE

1. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 1 of the plaintiff's complaint, as he has no personal knowledge thereof.

II. PARTIES

2. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 2 of the plaintiff's complaint, as s/he has no personal knowledge thereof.

3. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 3 of the plaintiff's complaint, as s/he has no personal knowledge thereof.
4. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 4 of the plaintiff's complaint, as s/he has no personal knowledge thereof.
5. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping admits the averments of paragraph 5 of the plaintiff's complaint.

III. JURISDICTION AND VENUE

6. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping states this is a legal assertion and thus he can neither admit nor deny the averments of paragraph 6 of the plaintiff's complaint, as he has no personal knowledge thereof.
7. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping states this is a legal assertion and thus he can neither admit nor deny the averments of paragraph 7 of the plaintiff's complaint, as he has no personal knowledge thereof.
8. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping states this is a legal assertion and thus he can neither admit nor deny the averments of paragraph 8 of the plaintiff's complaint, as he has no personal knowledge thereof.
9. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping states this is a legal assertion and thus he can neither admit nor deny the averments of paragraph 9 of the plaintiff's complaint, as he has no personal knowledge thereof.
10. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping states this is a legal assertion and thus he can neither admit nor deny the averments of paragraph 10 of the plaintiff's complaint, as he has no personal knowledge thereof.

WHEREFORE, the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping prays that this Court dismiss the plaintiff's complaint and enter judgment for the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, which includes an award of costs to the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping.

IV. FACTUAL ALLEGATIONS

11. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 11 of the plaintiff's complaint, as he has no personal knowledge thereof.
12. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 12 of the plaintiff's complaint, as he has no personal knowledge thereof.

13. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 13 of the plaintiff's complaint, as he has no personal knowledge thereof.
14. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 14 of the plaintiff's complaint, as he has no personal knowledge thereof.
15. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 15 of the plaintiff's complaint, as he has no personal knowledge thereof.
16. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 16 of the plaintiff's complaint, as he has no personal knowledge thereof.
17. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 17 of the plaintiff's complaint, as he has no personal knowledge thereof.
18. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 18 of the plaintiff's complaint, as he has no personal knowledge thereof.
19. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping denies the averments of paragraph 19 of the plaintiff's complaint.
20. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping denies the averments of paragraph 20 of the plaintiff's complaint.

V. CLAIMS

A. COUNT I - NEGLIGENCE

21. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping re-affirms, re-alleges, and incorporates herein its responses to paragraphs 1-20 of the plaintiff's complaint.
22. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 22 of Count I of the plaintiff's complaint, as he has no personal knowledge thereof.
23. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 23 of Count I of the plaintiff's complaint, as he has no personal knowledge thereof.
24. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 24 of Count I of the plaintiff's complaint, as he has no personal knowledge thereof.
25. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 25 of Count I of the plaintiff's complaint, as he has no personal knowledge thereof.

26. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 26 of Count I of the plaintiff's complaint, as he has no personal knowledge thereof.

WHEREFORE, the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping prays that this Court dismiss this Count I of the plaintiff's complaint and enter judgment for the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, which includes an award of costs to the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping.

B. COUNT II - NEGLIGENCE

27. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping re-affirms, re-alleges, and incorporates herein its responses to paragraphs 1-26 of the plaintiff's complaint.
28. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 28 of Count II of the plaintiff's complaint, as he has no personal knowledge thereof.
29. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 29 of Count II of the plaintiff's complaint, as he has no personal knowledge thereof.
30. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 30 of Count II of the plaintiff's complaint, as he has no personal knowledge thereof.
31. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 31 of Count II of the plaintiff's complaint, as he has no personal knowledge thereof.
32. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 32 of Count II of the plaintiff's complaint, as he has no personal knowledge thereof.
33. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 33 of Count II of the plaintiff's complaint, as he has no personal knowledge thereof.

WHEREFORE, the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping prays that this Court dismiss this Count II of the plaintiff's complaint and enter judgment for the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, which includes an award of costs to the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping.

C. COUNT III - NEGLIGENCE

34. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping re-affirms, re-alleges, and incorporates herein its responses to paragraphs 1-33 of the plaintiff's complaint.

35. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 35 of Count III of the plaintiff's complaint, as he has no personal knowledge thereof.
36. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 36 of Count III of the plaintiff's complaint, as he has no personal knowledge thereof.
37. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 37 of Count III of the plaintiff's complaint, as he has no personal knowledge thereof.
38. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 38 of Count III of the plaintiff's complaint, as he has no personal knowledge thereof.
39. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping can neither admit nor deny the averments of paragraph 39 of Count III of the plaintiff's complaint, as he has no personal knowledge thereof.

WHEREFORE, the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping prays that this Court dismiss this Count III of the plaintiff's complaint and enter judgment for the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, which includes an award of costs to the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping.

D. COUNT IV - NEGLIGENCE

40. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping re-affirms, re-alleges, and incorporates herein its responses to paragraphs 1-39 of the plaintiff's complaint.
41. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping denies the averments of paragraph 41 of Count IV of the plaintiff's complaint.
42. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping denies the averments of paragraph 42 of Count IV of the plaintiff's complaint.

WHEREFORE, the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping prays that this Court dismiss this Count IV of the plaintiff's complaint and enter judgment for the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, which includes an award of costs to the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping.

AFFIRMATIVE DEFENSES

1. The complaint fails to state a claim against this defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, for which relief can be granted
2. Defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping says that the injuries or damages alleged were caused in whole or in part by the plaintiff's own negligence, or the negligence of the person in whose care and custody the plaintiff was at the time of the accident alleged in plaintiff's complaint.

3. The defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping says that the acts or omissions alleged in plaintiff's complaint to be negligent were committed, if at all, by a person or persons for whose conduct the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping not legally responsible.
4. Defendant Roland Fong dba R&R Lawn Maintenance and Landscaping says that the injuries or damages alleged were caused in whole or in part by the conduct of the plaintiff and/or the plaintiff's agents, servants or employees, which conduct violated the various laws, statutes, ordinances and regulations governing the conduct of the parties at the time said injuries or damages were sustained.
5. In the event the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping is found negligent, which the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping denies, then the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping says that the plaintiff was comparatively negligent and that said negligence was greater than that of the defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping barring plaintiff's recovery.
6. The defendant Roland Fong dba R&R Lawn Maintenance and Landscaping says that if it shall appear at the trial of this matter that the plaintiff sustained injuries and/or damages as alleged in the complaint, then said injuries and/or damages were the result of the negligence of the plaintiff, which was the cause or a contributing cause of said injuries and/or damages.
7. The defendant Roland Fong dba R&R Lawn Maintenance and Landscaping says that there has been an insufficiency of process.
8. The defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping says that there has been an insufficiency of service of process.
9. The defendant Roland Fong dba R&R Lawn Maintenance and Landscaping says that the plaintiff has not commenced this action within the time allowed by statute for the commencement of such actions.
10. The defendant Roland Fong dba R&R Lawn Maintenance and Landscaping denies each and every paragraph, averment, item and matter set forth in plaintiff's complaint, which has not been specifically admitted.
11. The defendant Roland Fong dba R&R Lawn Maintenance and Landscaping should be dismissed from this action, as he is misnamed. The correct name is Great Scapes of Nashua, Inc.

THE DEFENDANT ROLAND FONG dba R&R LAWN MAINTENANCE AND
LANDSCAPING DEMANDS A TRIAL BY JURY ON ALL ISSUES.

CROSS-CLAIMS FOR CONTRIBUTION

PARTIES

1. The cross-claim plaintiff, Roland Fong dba R&R Lawn Maintenance and Landscaping, is corporation formed under the laws of the State of New Hampshire, has a usual place of business in Nashua, New Hampshire.

2. The cross-claim defendant, Princeton Properties Management, Inc. d/b/a Princeton Properties Apartments ("Princeton Properties") is a corporation formed under the laws of the Commonwealth of Massachusetts and has a usual place of business 1115 Westford Street, Lowell County of Middlesex, Commonwealth of Massachusetts.
3. The cross-claim defendant, Christian H. Gargurevich ("Gargurevich") is an individual and at all relevant times to this action has resided within the geographical boundaries of the Eastern District Massachusetts.

CROSS CLAIM COUNT I

4. Roland Fong dba R&R Lawn Maintenance and Landscaping says it is the defendant in this action entitled Hancock v. Roland Fong dba R&R Lawn Maintenance and Landscaping et al, and that said action arise out of an alleged trip and fall accident which allegedly occurred on February 8, 2004, in which plaintiff alleged he suffered injury and/or damages as a result of the negligence and carelessness of the defendant Roland Fong dba R&R Lawn Maintenance and Landscaping and Princeton Properties in connection with snow removal and or maintenance at the premises owned or controlled by Princeton Properties.
5. Roland Fong dba R&R Lawn Maintenance and Landscaping is not responsible for the injury and/or damages alleged by plaintiff.
6. If it is established that the plaintiff is entitled to recover from Roland Fong dba R&R Lawn Maintenance and Landscaping, which Roland Fong dba R&R Lawn Maintenance and Landscaping denies then Roland Fong dba R&R Lawn Maintenance and Landscaping says he is entitled for contribution from Princeton Properties as a joint tortfeasor pursuant to M.G.L.c231B.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiff in cross-claim, Roland Roland Fong dba R&R Lawn Maintenance and Landscaping, demands judgment for contribution against cross-claim defendant, Princeton Properties with respect to any damages which may be recovered by the plaintiff, Randy L. Hancock, against Roland Fong dba R&R Lawn Maintenance and Landscaping together with costs and interest as provided by law and any other further relief as this Honorable Court deems just, fair and equitable.

CROSS CLAIM COUNT II

7. Roland Fong dba R&R Lawn Maintenance and Landscaping says it is the defendant in this action entitled Hancock v. Roland Fong dba R&R Lawn Maintenance and Landscaping et al, and that said action arise out of an alleged trip and fall accident which allegedly occurred on February 8, 2004, in which plaintiff alleged he suffered injury and/or damages as a result of the negligence and carelessness of the defendant Roland

Fong dba R&R Lawn Maintenance and Landscaping and Gagurevich in connection with snow removal and or maintenance at the premises owned or controlled by Princeton Properties.

8. Roland Fong dba R&R Lawn Maintenance and Landscaping is not responsible for the injury and/or damages alleged by plaintiff.
9. If it is established that the plaintiff is entitled to recover from Roland Fong dba R&R Lawn Maintenance and Landscaping, which Roland Fong dba R&R Lawn Maintenance and Landscaping denies then Roland Fong dba R&R Lawn Maintenance and Landscaping says he is entitled for contribution from Gagurevich as a joint tortfeasor pursuant to M.G.L.c231B.

PRAYERS FOR RELIEF

WHEREFORE, the Plaintiff in cross-claim, Roland Roland Fong dba R&R Lawn Maintenance and Landscaping, demands judgment for contribution against cross-claim defendant, Gagurevich with respect to any damages which may be recovered by the plaintiff, Randy L. Hancock, against Roland Fong dba R&R Lawn Maintenance and Landscaping together with costs and interest as provided by law and any other further relief as this Honorable Court deems just, fair and equitable.

THE DEFENDANT ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING DEMANDS A TRIAL BY JURY ON ALL ISSUES.

Date: February 15, 2005

By its attorney,



Robert P. Turner, Esquire
BBO#: 504900
LAW OFFICES OF BRUCE R. FOX
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Auburn, MA 01501
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CERTIFICATE OF SERVICE

I, Robert P. Turner, attorney for the above named defendant, Roland Fong dba R&R Lawn Maintenance and Landscaping, do hereby certify that I caused a copy of the within ANSWER WITH JURY CLAIM OF DEFENDANT, ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING AND DEFENDANT, ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING'S CROSSCLAIM AGAINST PRINCETON PROPERTIES MANGEMENT, INC. d/b/a PRINCETON PROPERTIES APARMENTS, and DEFENDANT, ROLAND FONG dba R&R LAWN MAINTENANCE AND LANDSCAPING'S CROSSCLAIM CHRISTIAN H. GARGUREVICH to be served upon each named party by mailing a copy of same, postage prepaid, to each party's counsel of record, namely:

Mark S. Shuman
Law Office of Mark S. Shuman, P.C.
150 Federal Street, 12th Floor
Boston, MA 02110

Signed under the pains and penalties of perjury this 15th day of February, 2005.

A handwritten signature in black ink, appearing to read "Robert P. Turner", written over a horizontal line.

Robert P. Turner, Esquire